

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

TERRY JOE ARMSTRONG,)	
Institutional ID No. 1247399,)	
SID No. 2474200)	
Previous TDCJ No. 761488,)	
)	
Plaintiff,)	
)	
V.)	CIVIL ACTION NO.
)	5:08-CV-166-C
CLASSIFICATION & SAFE)	ECF
PRISONS UNIT, Price Daniels Unit,)	
)	
Defendant.)	

ORDER

Plaintiff Terry Joe Armstrong, proceeding *pro se*, filed a civil rights complaint pursuant to 42 U.S.C. § 1983, complaining that the Defendant violated his constitutional rights during his incarceration by the Texas Department of Criminal Justice (TDCJ). Armstrong claimed that an officer at the Price Daniel Unit threatened him, that he believed his life to be in danger, and that prison officials did not respond appropriately to his grievances.

The complaint was transferred to the docket of the United States Magistrate Judge, who held a hearing pursuant to *Spears v. McCotter*, 766 F.2d 179, 181-82 (5th Cir. 1985), on November 18, 2008, wherein Plaintiff indicated his desire to dismiss the claims in this action, and the hearing was immediately terminated.

Pursuant to this Court's Order entered on September 16, 2008, the Magistrate Judge entered findings of fact, conclusions of law, and a recommendation for disposition on December 19, 2008.

The undersigned United States District Judge has made an independent examination of the record in this case and has examined the findings, conclusions, and recommendation of the Magistrate Judge.

Based upon this Court's independent examination of the record of the evidentiary hearing, Plaintiff's complaint, Plaintiff's sworn testimony, and authenticated prison records, the Court finds that the Magistrate Judge's findings, conclusions, and recommendation should be accepted and adopted, and that Plaintiff's request for voluntary dismissal should be granted, and that his civil rights complaint and all claims alleged therein should be **dismissed without prejudice**. FED. R. CIV. P. 41(a).

So ORDERED.

Judgment shall be entered accordingly.

Any pending motions are denied.

Dated January 7, 2009.



SAM R. CUMMINGS
UNITED STATES DISTRICT COURT